IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 618 OF 1993

The State of Maharashtra ...Appellant.

V/s

Babasaheb Tatyaba Dhayagude ...Respondent.

Mr. A.S. Shitole for the appellant.
None for the respondent.

CORAM: V.M.KANADE,J.

DATE: 21st March, 2005

ORAL JUDGMENT:

1. The State has filed this appeal for enhancement of the sentence given by the Additional Sessions Judge in Sessions Case No.92 of 1990 dated 16/8/1993. By the said judgment and order the accused was convicted for the offence punishable under section 306 and 498A of the Indian Penal Code and sentenced to undergo RI for one year and one month respectively.

2. Prosecution case in brief is that the accused had married Sunita who was the daughter of Mukund Hari Patil about 15 years before the incident. The incident took place on 3/1/1990. Prosecution case is that the accused was addicted to liquor and used to constantly demand money for the purpose of consuming liquor from his wife and also used to sell household articles. On the date of the incident, the accused

was demanding money for consuming liquor. His wife Sunita went inside the house, closed the door by putting chain from inside, poured kerosene on her body and set herself on fire. Prosecution case is that when she started burning, the accused climbed on the roof of the house and jumped in the house and extinguished the fire, took his wife to the S.T. Stand and from there she was taken to Lonand Hospital. When she was being taken to the hospital she had told Mukund Patil that being tired with the ill-treatment by the accused she had put herself ablaze. Her statement was recorded by the Police Head Constable. Thereafter, the Special Executive Magistrate also recorded the statement of Sunita in a question and answer form. Sunita succumbed to the burn injuries and died. Thereafter, accused was arrested 7/1/1990. Charge-sheet was filed and the trial court convicted the accused for the offence punishable under section 306 and 498A of the Indian Penal Code.

3. The State has preferred this appeal for enhancement of the sentence. The Trial Court while considering the question of sentence has taken into consideration that the accused had three small children and that they were being looked after by grand-parents. The Trial Court has also taken into

consideration that brothers of the accused are living separately and even his parents are residing separately. Taking into consideration these circumstances, the Trial Court convicted the accused for an offence punishable under section 306 and sentenced him to suffer R.I. for one year and further convicted and sentenced him to suffer R.I. for one month for the offence punishable under section 498A. Taking an over all view of the matter and looking to the facts and circumstances of the case, I do not see any reason to interfere with the view taken by the Trial Court. Thus, there is no reason to interfere with the order passed by the Trial Court on the question of sentence. No case is made out for enhancement of the sentence. Criminal Appeal is therefore dismissed.

V.M. KANADE, J.